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EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
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2141

NOTIFICATION DATE	DELIVERY MODE
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06/13/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 09/539,662	Applicant(s) COMBEST, RICKY F	
	Examiner KRISTIE D. SHINGLES	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,28-47 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,28-47 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant has no amended claims.
Claims 8-27 and 48-50 are non-elected.

Claims 1-7, 28-47 and 51 are pending.

Response to Arguments

I. Applicant's arguments filed 3/6/2008 have been considered but are not persuasive.

- A. Regarding Claim 1: Applicant argues that the cited prior art of record, *Godefroid et al*, fails to disclose "network access devices storing information that is searchable by other network access devices".

Examiner respectfully disagrees. *Godefroid et al* explicitly disclose a user of a first device allowing a user of a second device to access the first device (*col.3 lines 13-21 and 31-57*). The provision of accessibility to another user's device thus provides for the viewing and searching of the information being accessed. The rejection is therefore maintained.

- B. Regarding Claim 1: Applicant argues that the cited prior art of record, *Godefroid et al*, fails to disclose "an interface facilitating connection to a global network".

Examiner respectfully disagrees. *Godefroid et al* explicitly teach tracking a user's location for the presence awareness system using GPS (*col.5 lines 4-6*), and further implementing the collaborative system using such web browsers (*col.4 line 60*) and applications such as NetMeeting (*col.3 lines 11-13*) and AOL Instant Messenger (*col.2 lines 33-44*), which imply connections and communication over Internet global network. The rejection is therefore maintained.

Claim Rejections - 35 USC § 102

II. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

III. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by *Godefroid et al* (USPN 6,697,840).

a. **Per claim 1**, *Godefroid et al* teach a dynamic virtual network on which participating members can establish partnerships, communicate, and share information, the network comprising:

- a network authority including a computer programmed for network administration (*col.7 line 45-col.8 line 18—PA server functions as a network authority*);
- at least a first network member and a second network member, each member including a computer comprising means for communicating over a global network (*col.4 lines 48-63, col.5 lines 4-14 and 50-55—multiple user members in the network*);
- at least a first network access device and a second network access device, wherein the first access device is accessible by the first network member and the second access device is accessible by the second network member each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member (*col.2 lines 19-24, col.3 lines 35-62, col.6 lines 53-67, col.7 lines 1-44, col.8 lines 9-18—a respective PA controller is associated with each user, accessible to the associated user and stores information about the associated user*); and
- for each network access device and the network authority, an interface facilitating connection to a global network (*col.7 lines 1-20*).

b. **Per claim 2**, *Godefroid et al* teach the network claimed in claim 1, wherein the global network interface provides priority network transmission by connection to a commercial global network system, which provides business critical levels of service (*col.2 lines 19-22, col.3 lines 1-62, col.10 lines 1-35*).

c. **Per claim 3**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, including communication between the first and second network access devices, and the network authority, which utilizes digital certificates (*col.8 lines 9-65*).

d. **Per claim 7**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, including means for enabling limited access to the member's information to other network members, while excluding nonmembers from access (*col.3 lines 40-62*).

Claim Rejections - 35 USC § 103

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

V. **Claims 28-36, 38-44, 47 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kleinpeter III et al* (USPN 6,907,463) in view of *Schneider et al* (USPN 6,105,027).**

a. **Per claim 28**, *Kleinpeter III et al* teach a method for forming a partnership between two dynamic virtual network members connected by a network, the method comprising:

- selecting a partnership criterion by the first network member (*col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-38—user's request message is partnership criterion that initiates the agent selection process*);

- broadcasting the partnership criterion by the first network member to other network members (*col.7 lines 39-44—broadcasting of the request message includes a query with partnership criterion*);
- receiving by a second network member the partnership criterion (*col.1 lines 60-66 and col.7 lines 28-57—all nodes of the network received the request message, including the node able to fulfill the request*);
- the second network member responding to the first network member (*col.1 line 65-col.2 line 46 and col.7 lines 57-61—the node able to fill the request responds*); and
- establishing a partnership relationship between the first network member and second network member (*col.1 line 62-col.3 line 43, col.4 lines 27-63, col.7 lines 57-61 and col.8 line 22-col.9 line 36—upon receiving response from the responding node, a partnership is established via a connection of the ports from the active agent to the passive agent for handshaking and transfer instructions*).

Yet, *Kleinpeter III et al* fail to distinctly teach virtual network members.

However, *Schneider et al* disclose a virtual private network with users forming a membership group (*Abstract, col.4 lines 43-50, col.7 lines 42-65, col.11 line 29-col.12 line 56*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kleinpeter III et al* and *Schneider et al* for the purpose of implementing a virtual network with logical connections and access to other users and resources on the network; because it permits secure transparent communication for the users thereby creating a wide area network capable of spanning large geographic regions with many users.

b. **Claim 36** is substantially similar to claim 28 and is therefore rejected under the same basis (*Kleinpeter III et al: col.1 lines 43-45, col.3 lines 22-55, col.4 lines 18-26, col.7 lines 28-38, col.7 line 67-col.8 line 3 and col.11 lines 43-50*).

c. **Claims 38 and 39** are substantially similar to claim 36 and are therefore rejected under the same basis.

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d. **Per claim 29**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the network members are connected to the network via a network access device, which denies network access to net non-members (*col.3 lines 43-50, col.5 line 5-col.6 line 8 and col.7 lines 40-65*).

e. **Per claim 30**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's access drive (*col.2 lines 30-45, col.6 lines 23-36, col.14 line 24-col.15 line 49 and col.18 line 11-col.19 line 45*).

f. **Per claim 31**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's shared storage area (*col.2 lines 30-45, col.6 lines 23-36 and col.12 lines 3-47; Kleinpeter III et al: col.6 lines 48-56 and col.8 lines 14-20 and col.10 lines 13-32*).

g. **Per claim 32**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes transmittal by the first network member to the second network member of authorization to access private data on the first network member's network access device (*col.9 line 56-col.13 line 8 and col.18 line 11-col.19 line 45*).

h. **Claim 33** is substantially similar to claims 31 and 32 and is therefore rejected under the same basis.

i. **Per claim 34**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes permitting access by the first network member partner to role information of the second network member partner (*col.6 lines 23-36, col.9 line 44-col.10 line 39 and col.13 line 10-col.14 line 63*).

j. **Claim 35** is substantially similar to claims 32 and 34 and is therefore rejected under the same basis.

k. **Per claim 40**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein the archiving control element resides in the network access device (*col.42 lines 48-62*).

l. **Claim 41** is substantially similar to claim 40 and is therefore rejected under the same basis.

m. **Per claim 42**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Kleinpeter III et al* further teach wherein receiving and contemporaneously archiving the transmitted information includes sending a return receipt (*col.5 lines 26-56 and col.9 line 56-col.10 line 6*).

n. **Per claim 43**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed

in claim 36, *Schneider et al* further teach further comprising establishing a partnership between the first and second network members before the transmitting and contemporaneous archiving step (*col.7 lines 42-65 and col.10 lines 3-18*).

o. **Per claim 44**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein transmitting and contemporaneously archiving includes encrypting the information (*col.4 lines 50-63, col.6 lines 9-22 and col.8 lines 19-27*).

p. **Per claim 47**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein receiving and contemporaneously archiving transmitted information includes transmitting the signed document to the first network member (*col.10 lines 26-67; Kleinpeter III et al: col.2 lines 25-31, col.10 lines 13-25 and 64-67*).

q. **Per claim 51**, *Schneider et al* and *Kleinpeter III et al* teach a method of claim 28, *Kleinpeter III et al* wherein the partnership criterion is expressed as a search, and wherein the step of receiving comprises performing the search at the second network member (*col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-61*).

VI. Claims 4 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godefroid et al (USPN 6,697,840) in view of Schneider et al (USPN 6,105,027).

a. **Per claim 4**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, yet fails to further teach wherein at least the first and second network members include means for exchanging public keys. However *Schneider et al* teach network users exchanging public keys (*col.10 lines 19-37*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Godefroid et al* with *Schneider et al* for

the purpose of allowing users the ability to exchange public keys in order to permit other users to access encrypted/decrypted messages.

b. **Claim 45** is substantially similar to claim 4 and is therefore rejected under the same basis.

VII. Claims 5, 6, 37 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Godefroid et al* (USPN 6,697,840) in view of *Kleinpeter III et al* (USPN 6,907,463).

a. **Per claim 5**, *Godefroid et al* teach the method of claim 1 as applied above, yet fail to explicitly teach wherein the network authority further includes a means for contemporaneously archiving a communication transmitted over the network. However, *Kleinpeter III et al* teach archiving communications transmitted over the network to a server or gateway (*col.3 lines 22-55, col.7 line 67-col.8 line 3 and col.11 lines 34-50*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Godefroid et al* with *Kleinpeter III et al* for the purpose of contemporaneously archiving communications transmitted over a network, because this provisions the maintenance of the transmitted communications and also allows for the quick retrieval of communications that have been archived and the ability to handle interrupts by not starting a transmission over, but only transmitting data that is missing.

b. **Claim 6** is substantially equivalent to claim 5 and is therefore rejected under the same basis.

c. **Claim 37** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

d. **Claim 46** is substantially similar to claim 3 and is therefore rejected under the same basis.

Conclusion

VIII. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: Freund (5987611), Holden et al (5828832), Chapman et al (5774650), Newton et al (5771291).

IX. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

X. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie D. Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie D. Shingles
Examiner
Art Unit 2141

kds

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151